

DAVID A. MERCHANT II
Assistant Federal Defender
Federal Defenders of Montana
2702 Montana Avenue, Suite 101
Billings, Montana 59101
Phone: (406) 259-2459
david_merchant@fd.org
Attorneys for Defendant

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MONTANA
BILLINGS DIVISION**

UNITED STATES OF AMERICA,

Plaintiff,

vs.

JESUS YEIZON DENIZ MENDOZA,

Defendant.

Case No. CR-15-93-BLG-SPW

**NOTICE OF INTENT TO
INTRODUCE EXPERT
TESTIMONY REGARDING
‘SPICE’**

NOW COMES Jesus Yeizon Deniz Mendoza, by and through his Counsel,
hereby notifies the Court and the Government, pursuant to the Order issued by this
Court on January 19, 2017 (docket # 115), and states the following:

Mr. Mendoza has previously given notice of his intent to proceed to trial with an insanity defense. (Docket # 92). A competency hearing was held on December 14, 2016. (Docket # 106). At that hearing, Dr. Cynthia Low from the Federal Bureau of Prisons was the sole witness. Prior to her testimony, she had been provided a copy of a psychological evaluation done by Dr. Antolin Llorente. Dr. Llorente is the director of Neuropsychology in the Department of Psychiatry in the College of Medicine at Penn State University. That evaluation did not include any opinion as to the effects and affects ‘spice’ may have had on Jesus Mendoza on July 29, 2015, or the effects and affects of ‘spice’ generally on a person.

Based on evidence obtained during the search of the vehicle Mr. Mendoza was driving on July 29th, it is believed that Mr. Mendoza had ingested a considerable amount of ‘spice’ prior to his arrest. This was also testified to by Dr. Low, but Dr. Low testified that she did not believe that the ‘spice’ had incapacitated Mr. Mendoza based on his behavior and answers during his interrogation after his arrest.

After discussion with Dr. Llorente, undersigned counsel will rely on his testimony to explain the effects and affects of ‘spice’ ingestion and intoxication. During the course of Dr. Llorente’s continuing medical education and research, he is aware of ‘spice’ and it’s adverse effects and affects and both uses that information in his clinical duties as well he has incorporated them in his teachings.

Dr. Llorente will provide an ongoing list of scientific and medical journals and articles that he has reviewed that form the basis of his opinions. While he has previously testified in both state and federal courts as an expert, he has not testified previously in regards to ‘spice’ specifically. He will also provide undersigned counsel and the government a written report of his opinion by February 24, 2017, which would give the government that report one (1) month prior to trial.

In summary, Dr. Llorente is anticipated to testify that ‘spice’ does cause psychotic episodes and delusional effects on an individual and chronic or long term use has significant negative impact on brain function and can exacerbate a myriad of mental health conditions; including schizophrenia and schizoaffective disorder, post-traumatic syndrome and depressive disorders. All of which Mr. Mendoza has been previously diagnosed with.

The following are some of the journal articles relied on by Dr. Llorente:

Vandery, Ryan, Dunn, Kelly E., Fry, Jeannie A., and Girling, Elizabeth R., *A Survey Study to Characterize Use of Spice Products*, Drug and Alcohol Dependence, Vol. 120, pp 238 -241, January 1, 2012.

Hua, Tian, et al., *Crystal Structure of the Human Cannabinoid Receptor CB(1)*, National Institute of Health - National Institute on Drug Abuse, Volume 167, Issue 3, pp 750-752, October 20, 2016.

American Psychiatric Assoc., Diagnostic and Statistical Manual of Mental Disorders. American Psychiatric Association, Washington D.C. 2000.

Aung, M.M., Griffin, G., J.W., Wu, M., Keel, C., Yang, B., Showalter, V.M., Abood, M.E., Martin, B.R., *Influence of the N-1 alkyl chain length of cannabimimetic indoles upon CB(1) and CV(2) receptor binding*. Drug and Alcohol Dependence. Volume 60, pp 133-140.

Müller, H., Sperling, W., Kohrmann, M., Huttner, H.B., Kornhuber, J., Maler, J.M. *The synthetic cannabinoid Spice as a trigger for an acute exacerbation of cannabis induced recurrent psychotic episodes*. Schizophr. Res. 2010;118:309–310.

RESPECTFULLY SUBMITTED this 1st day of February, 2017.

/s/ David A. Merchant II
DAVID A. MERCHANT II

CERTIFICATE OF SERVICE
L.R. 5.2(b)

I hereby certify that on February 1, 2017, a copy of the foregoing document was served on the following persons by the following means:

| | |
|-------------------------|----------------|
| <u>1, 2</u> <u>3</u> | CM-ECF Mail |
|-------------------------|----------------|

1. CLERK, UNITED STATES DISTRICT COURT

2. LORI HARPER SUEK
JOHN D. SULLIVAN
Assistant United States Attorney
United States Attorney's Office
2601 2nd Avenue North, Suite 3200
Billings, MT 59101
Counsel for the United States

JOSEPH E. THAGGARD
Assistant United States Attorney
United States Attorney's Office
901 Front Street, Suite 1100
Helena, MT 59626
Counsel for the United States

3. JESUS YEIZON DENIZ MENDOZA
Defendant

/s/ David A. Merchant II

DAVID A. MERCHANT II